

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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<http://www.montgomerycountymd.gov/content/council/boa/board.asp>

Case No. A-5911

PETITION OF AMY WOOLF
(Hearing held September 10, 2002)

OPINION OF THE BOARD
(Effective date of Opinion, October 17, 2003)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(a). The petitioner proposes to construct a two-story addition that requires a three (3) foot variance as it is within twenty-two (22) feet of the front lot line. The required setback is twenty-five (25) feet.

The subject property is Lot 10, Block S, Rock Creek Forest Subdivision, located at 2701 East West Highway, Chevy Chase, Maryland, 20815, in the R-60 Zone (Tax Account No. 01159997).

Decision of the Board: Requested variance **denied**.

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner proposes to construct a 10 x 20 foot two-story addition in the northeast section of the property.
2. The petitioner testified that the house is a small colonial style house located at the intersection of East West Highway and Ellingson Drive. The petitioner testified that she has lived in the house for eleven years and that a smaller addition would not be economical.
3. The petitioner testified that the diagonal placement of the house on the property prevents a rectangular addition from being built on the property without a variance. The petitioner testified that most homes in the neighborhood are sited parallel to the road, permitting new construction on those properties.

FINDINGS OF THE BOARD

Based upon the petitioner's binding testimony and the evidence of record, the Board finds that the variance must be denied. The requested variance does not comply with the applicable standards and requirements set forth in Section 59-G-3.1(a) as follows:

- (a) *By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would*

result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.

The Board finds that the petitioner's lot has no exceptional topographical or other conditions peculiar to the property and that the petitioner's lot is similar in size and shape to the other properties in the immediate neighborhood. See, Exhibit No. 8 (zoning vicinity map). The Board notes that the siting of a house on a lot or the costs of new construction is not a zoning reason for the grant of a variance. *Umerley v. People's Counsel*, 108 Md. App. 497, 506 (1996) citing *North v. St. Mary's County*, 99 Md. App. 502, 514 (1994).

The petition does not meet the requirements of Section 59-G-1.3(a) and the Board did not consider the other requirements in that section for the grant of a variance. Accordingly, the requested variance of three (3) feet from the required twenty-five (25) foot rear lot line setback for the construction of a two-story addition is denied.

The Board adopted the following Resolution:

Board member Donna L. Barron was necessarily absent and did not participate in this Resolution. On a motion by Louise L. Mayer, seconded by Allison Ishihara Fultz, with Angelo M. Caputo and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing
Opinion was officially entered in the
Opinion Book of the County Board of
Appeals this 17th day of October, 2003.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.

